

[Counsel information listed on signature page]

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

CAPELLA PHOTONICS, INC.,  
Plaintiff,  
v.  
CISCO SYSTEMS, INC.,  
Defendant.

Case No. 3:14-CV-03348-EMC

**UPDATED JOINT STATUS REPORT,  
STIPULATED REQUEST TO  
CONTINUE CASE MANAGEMENT  
CONFERENCE, AND [PROPOSED]  
ORDER**

CAPELLA PHOTONICS, INC.,  
Plaintiff,  
v.  
FUJITSU NETWORK  
COMMUNICATIONS, INC.,  
Defendant.

Case No. 3:14-CV-03349-EMC  
(related case)

CAPELLA PHOTONICS, INC.,  
Plaintiff,  
v.  
TELLABS OPERATIONS, INC. AND  
CORIANT (USA) INC.,  
Defendants.

Case No. 3:14-CV-03350-EMC  
(related case)

CAPELLA PHOTONICS, INC.,  
Plaintiff,  
v.  
CIENA CORPORATION,  
Defendant.

Case No. 3:14-CV-03351-EMC  
(related case)

1           Lead counsel for Plaintiff Capella Photonics, Inc. (“Capella” or “Plaintiff”), and  
 2 Defendants Cisco Systems, Inc. (“Cisco”), Ciena Corporation (“Ciena”), Fujitsu Network  
 3 Communications, Inc. (“FNC”), Coriant Operations, Inc. (formerly Tellabs Operations, Inc.), and  
 4 Coriant (USA) Inc. (Coriant entities collectively “Coriant”) (collectively “Defendants”) (together  
 5 with Plaintiff, “the parties”) submit this Updated Joint Status Report for the above-captioned  
 6 cases (collectively, the “Related Actions”) pursuant to the Court’s March 6, 2015 Order staying  
 7 the Related Actions (Dkt. No. 172) and the November 5, 2015 Clerk’s Notice (Dkt. No. 174).

8           Pursuant to the Court’s March 6, 2015 Order, the Related Actions are “stayed in their  
 9 entirety pending final exhaustion of the relevant review proceedings, including any appeals.”  
 10 (Dkt. No. 172 at 6). The parties hereby apprise the Court of the status of the *inter partes* review  
 11 proceedings initiated by Cisco and additional *inter partes* review proceedings concerning the  
 12 Patents in Suit pending in the United States Patent & Trademark Office (Patent Office).

### 13   **I. STATUS OF THE IPR PROCEEDINGS**

14           On July 15, 2014, Cisco filed a petition for *inter partes* review (IPR2014-01166) on the  
 15 ’368 patent. Cisco filed a petition (IPR2014-01276) on the ’678 patent less than a month later.  
 16 The two IPR petitions addressed every asserted claim against each of the Defendants. The Patent  
 17 Office joined Ciena, FNC, and Coriant in these two IPR proceedings. The Patent Office issued  
 18 Final Written Decisions on January 28, 2016 in IPR2014-01166 and on February 17, 2016 in  
 19 IPR2014-01276. The Patent Office found unpatentable every claim asserted in this litigation.  
 20 Capella has filed requests for rehearing in both IPRs.

21           On August 24, 2015, the Patent Office instituted FNC’s *inter partes* review (IPR2015-  
 22 00726) involving the ’368 patent and FNC’s *inter partes* review (IPR2015-00727) involving the  
 23 ’678 patent. Ciena and Coriant moved to join these IPRs on September 24, 2015. The Patent  
 24 Office on March 21, 2016 joined Ciena and Coriant in FNC’s IPR2015-00727 involving the ’678  
 25 patent. The Patent Office’s decision on Ciena and Coriant’s motion to join FNC’s IPR2015-  
 26 00726 involving the ’368 patent is due by March 30, 2016. Under the current schedule, the Patent  
 27 Office will issue Final Written Decisions in these IPRs by August 24, 2016.

28           On August 25, 2015, the Patent Office instituted *inter partes* review (IPR2015-00731) for

1 the '368 patent and *inter partes* review (IPR2015-00739) for the '678 patent based on petitions  
2 filed by non-party JDS Uniphase Corporation (JDSU) (now called "Lumentum"). The Patent  
3 Office joined Cisco, Ciena, FNC, and Coriant in these two IPR proceedings. Under the current  
4 schedule, the Patent Office will issue Final Written Decisions in these IPRs by August 25, 2016.

5 **II. STIPULATED REQUEST TO CONTINUE CASE MANAGEMENT**  
6 **CONFERENCE**

7 Given the status of the IPR proceedings, the Parties propose and stipulate to continuing  
8 the Case Management Conference, currently scheduled for April 7, 2016 (Dkt. No. 174), until  
9 September 15, 2016, or such other date as the Court may wish. The Parties further propose and  
10 stipulate to filing an updated joint status report on September 1, 2016. A [Proposed] Order  
11 continuing the Case Management Conference in light of the foregoing stipulation is attached  
12 hereto.

1 Dated: March 24, 2016

MANATT, PHELPS, & PHILLIPS, LLP

2 By: /s/ Robert D. Becker w/ permission  
3 Robert D. Becker  
4 Attorneys for Plaintiff  
Capella Photonics, Inc.

5 Dated: March 24, 2016

COOLEY LLP

6 /s/ Sarah J. Guske

7 Wayne O. Stacy (*pro hac vice*)  
8 Sarah J. Guske (SBN 232467)  
380 Interlocken Crescent, Suite 900  
9 Broomfield, CO 80021  
Telephone: (720) 566-4000  
10 Facsimile: (720) 566-4099

11 Attorneys for Defendant CISCO SYSTEMS, INC.

12 /s/ Nathaniel T. Browand w/ permission

13 Mark C. Scarsi (SBN 183926)  
mscarsi@milbank.com  
14 Ashlee Lin (SBN 275267)  
ashlee.lin@milbank.com  
MILBANK, TWEED, HADLEY  
& McCLOY LLP  
15 601 South Figueroa Street, 30th Floor  
Los Angeles, CA 90017  
16 Tel: (213) 892-4459  
Fax: (213) 629-5063

17 Nathaniel T. Browand\*  
18 nbrowand@milbank.com  
MILBANK, TWEED, HADLEY  
19 & McCLOY LLP  
28 Liberty Street  
20 New York, NY 10005  
Tel: (212) 530-5000  
21 Fax: (212) 530-5219  
\* admitted pro hac vice

22 Attorneys for Defendant,  
23 Fujitsu Network Communications, Inc.

24 By: /s/ J. Pieter van Es w/ permission

25 PILLSBURY WINTHROP SHAW PITTMAN LLP  
26 COLIN T. KEMP (SBN 215408)  
colin.kemp@pillsburylaw.com  
27 STEPHEN E. BERGE (SBN 274329)  
stephen.berge@pillsburylaw.com  
28 4 Embarcadero Center, 22nd Floor

San Francisco, CA 94111  
Telephone: (415) 983-1000  
Facsimile: (415) 983-1200

BANNER & WITCOFF, LTD.  
V. BRYAN MEDLOCK, JR.\*  
bmedlock@bannerwitcoff.com  
J. PIETER VAN ES (CBN 250524)  
pvanes@bannerwitcoff.com  
THOMAS K. PRATT\*  
tpratt@bannerwitcoff.com  
TIMOTHY J. RECHTIEN\*  
trechtien@bannerwitcoff.com  
10 South Wacker Drive, Suite 3000  
Chicago, IL 60606  
Telephone: (312) 463-5000  
Facsimile: (312) 463-5001  
\* admitted pro hac vice  
***Attorneys for Defendants Coriant Operations, Inc.  
(formerly Tellabs Operations, Inc.) and Coriant (USA)  
Inc.***

/s/ Michelle P. Woodhouse w/ permission  
Michelle P. Woodhouse (Bar No. 260669)  
E-mail: michelle.woodhouse@lw.com  
LATHAM & WATKINS LLP  
140 Scott Drive  
Menlo Park, CA 94025

Matthew Moore\*  
E-mail: matthew.moore@lw.com  
Elizabeth Johnson\*  
E-mail: elizabeth.johnson@lw.com  
LATHAM & WATKINS LLP  
555 Eleventh Street, NW, Suite 1000  
Washington, DC 20004  
202-637-2200

Clement Naples\*  
E-mail: clement.naples@lw.com  
Chi Cheung\*  
E-mail: chi.cheung@lw.com  
LATHAM & WATKINS LLP  
885 Third Ave  
New York, NY 10022  
212-906-1200

\* pro hac vice  
Attorneys for Defendant Ciena Corporation

1 Pursuant to Local Rule 5-1(i)(3) regarding signatures, I, Sarah J. Guske, attest that  
2 concurrence in the filing of this document has been obtained from each of the other signatories. I  
3 declare under penalty of perjury under the laws of the United States of America that the foregoing  
is true and correct.

4 Executed Thursday, March 24, 2016.

5 /s/ Sarah J. Guske  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

CAPELLA PHOTONICS, INC.,

Plaintiff,

v.

CISCO SYSTEMS, INC.,

Defendant.

Case No. 3:14-CV-03348-EMC

**[PROPOSED] ORDER CONTINUING  
CASE MANAGEMENT  
CONFERENCE**

CAPELLA PHOTONICS, INC.,

Plaintiff,

v.

FUJITSU NETWORK  
COMMUNICATIONS, INC.,

Defendant.

Case No. 3:14-CV-03349-EMC  
(related case)

CAPELLA PHOTONICS, INC.,

Plaintiff,

v.

TELLABS OPERATIONS, INC. AND  
CORIANT (USA) INC.,

Defendants.

Case No. 3:14-CV-03350-EMC  
(related case)

CAPELLA PHOTONICS, INC.,

Plaintiff,

v.

CIENA CORPORATION,

Defendant.

Case No. 3:14-CV-03351-EMC  
(related case)

1 Pursuant to the Parties' stipulated request to continue the April 7, 2016 Case Management  
2 Conference, and for good cause appearing, it is so Ordered.

- 3 1. The Case Management Conference is continued until September 15, 2016.  
4 2. The parties shall submit an updated joint status report on September 1, 2016.

5  
6 Dated: \_\_\_\_\_  
7 HON. EDWARD CHEN  
8 UNITED STATES DISTRICT JUDGE  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28